

**State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA**

**Government Code § 11126 (a), (c)(3), and (e)
For**

Wednesday, November 19, 2008

10:00 AM

**Sacramento, California
&
West Covina, California**

**TO: Members of the California Occupational Safety and Health
Appeals Board**

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: November 7, 2008

RE: Closed Session of the Board on November 19, 2008

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. FRANK M. BOOTH, INC., 06-R2D1-4702 AND 4703
2. C.A. RASMUSSEN, INC., 08-R4D5-0219 AND 0220
3. CHERNE CONTRACTING CORPORATION, 07-R6D3-0612 THROUGH 0616
4. PETERSON BROS. CONSTRUCTION, 07-R3D2-4387 AND 4388

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. AKG CONSTRUCTION, 08-R4D1-2620 AND 2621
2. AFFORDABLE DRAIN SERVICE, 08-R3D2-2310 AND 2311
3. ALDO SHOES, 07-R1D2-116
4. AMERICAN BUILDING SUPPLY, INC., 07-R2D1-4841 AND 4842
5. ARBORGUARD INC., DBA ARBORWELL, 08-R1D4-0017
6. ARIEL CONSTRUCTION, 07-R4D1-4436
7. ARO WIRE PRODUCTS, INC., 07-R4D1-5358 AND 5359
8. ASBESTOS MANAGEMENT GROUP OF CALIFORNIA, INC., 06-R1D1-2542
9. AUTO COLLISION CENTER MANAGEMENT, INC., DBA BEAUDRY,
08-R6D5-2128
10. ARMOND AVAKIAN, HOMEOWNER, 08-R4D2-0592 THROUGH 0594
11. BARREL TEN QUARTER CIRCLE INC., 07-R1D5-5284 THROUGH 5286
12. BARRETT BUSINESS SERVICES, INC., 06-R1D4-2454
13. TOM BESMER CONSTRUCTION, INC., 06-R2D5-4605
14. BEST KANG, INC., DBA SAVE TRIM, 07-R4D1-4041 THROUGH 4045
15. C & G FARMS, INC., 08-R6D5-2164
16. C-QUEST, INC., 07-R4D2-2237 AND 2238
17. C-QUEST, INC., 07-R4D2-2237 AND 2238
18. C-QUEST, INC., DBA N & k APPAREL, 08-R4D2-2831

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19. CA CORRECTIONS DBA CDCR, 06-R2D5-4742
20. CALIFORNIA LUTHERAN UNIVERSITY, 07-R4D3-4731
21. TOM CHARTER & PERRY CHARTER DBA T&P FARMS, 07-R2D1-4020
22. CHILDERS CONTRACT CUTTING, 07-R2D5-4366
23. CHINA GARDEN RESTAURANT, 06-R2D5-3731 AND 3732
24. CHINO HILLS CAR WASH, 08-R6D5-2216
25. CITY FIBERS, INC., 04-R4D2-3966 THROUGH 3969
26. CITY OF EL CENTRO WATER DEPARTMENT, 08-R6D4-2056 THROUGH 2058
27. CLAUDE LAVAL CORPORATION, 07-R2D5-3874
28. R L CLOTWORTHY CONSTRUCTION, INC., 08-R4D1-0924
29. CLOVER LEAF CONSTRUCTION COMPANY, 08-R1D2-1186
30. CLUB FRESH, LLC, 07-R2D1-4208 AND 4209
31. CRAIG FIRE PROTECTION, 08-R4D1-2618 AND 2619
32. DENNIS CULLINANE DBA CULLINANE PLASTERING, 07-R1D1-3733
THROUGH 3739
33. D.C. VIENT INC., 07-R2D1-4538
34. D'ARRIGO BROS. CO. OF CALIFORNIA, 08-R6D3-2357
35. DSG MECHANICAL, 07-R4D4-1079 AND 1080
36. DOLE FRESH VEGETABLES INC., 08-R1D2-0002
37. DOS HERMANOS, 07-R2D5-2705 AND 2706
38. DUENAS PALLETS, 08-R6D5-2129 AND 2130
39. EC LABOR, 07-R1D2-3529 AND 07-R1D2-3634
40. EDCO WASTE & RECYCLING, 07-R6D2-4394 AND 4395

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41. EL PROGRESSO, INC., 06-R2D5-1812 AND 1813 AND 06-R2D5-1819
42. FARMERS' RICE COOPERATIVE, 07-R2D1-4211
43. FARMERSVILLE DOLLAR TREE STORE, 07-R2D5-4550
44. JR FILANC CONSTRUCTION CO, INC., 08-R2D5-0563
45. FINE TOUCH TRIM & PAINTING, 08-R6D5-2127
46. FUJIYAMA NURSERY, 07-R4D4-4470
47. GDT FRAMING, INC., 07-R6D5-5248 THROUGH 5250
48. GELATO VERO CAFFE, 07-R3D2-3134 THROUGH 3137
49. GENERAL AG LABOR SERVICES, INC., 06-R2D5-2000
50. GLOBAL COMPLIANCE SERVICES, INC., DBA NATIONAL SHOPPING SERVICE, 07-R2D1-4622
51. GONSALVEZ & SANTUCCI DBA CONCO, 08-R4D1-2001
52. GOODWILL INDUSTRIES, 07-R2D1-4838 THROUGH 4840
53. GRANITE CONSTRUCTION CO., 06-R1D5-5252
54. GREEN LEAF G.T.H., INC., 08-R4D1-2684
55. H L FASHION, INC., 08-R6D5-2359 AND 2360
56. HPC CONSTRUCTION, 06-R2D1-3873
57. HALL MANAGEMENT CORPORATION, 07-R2D5-0389 THROUGH 0391
58. INGLEWOOD USD – OAK STEET ELEMENTARY SCHOOL, 08-R4D1-1888 AND 1889
59. INTERSTATE BRANDS CORP., 06-R3D2-4260 THROUGH 4262
60. JY CONSTRUCTION INC., 07-R4D1-5362
61. JACOBS FIELD SERVICES NORTH AMERICA, 08-R6D4-1938

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62. JOCER ENTERPRISES, INC., DBA CASTLEBROOK BARNS, 07-R6D2-5236 THROUGH 5239
63. JOHANSON DIELECTRIC INC., 07-R4D3-5064 AND 5065
64. JOHN FASHION, 07-R6D2-5017 THROUGH 5019
65. KAZI FOODS INC., DBA KFC TACO BELL, 07-R4D1-5364
66. KENYON PLASTERING, 08-R1D2-0005 AND 0006
67. KINO AGGREGATES, INC., 07-R5D1-4474
68. L.A. DEPARTMENT OF WATER & POWER, 08-R4D1-1626
69. LA CURACAO, 08-R4D2-2722
70. LABOR READY, 07-R2D3-4544
71. LINDSAY-STRATHMORE IRRIGATION DISTRICT, 07-R6D3-4063 THROUGH 4071
72. LUCKY T C, INC., DBA LUCKY T & C, 07-R6D2-4928 THROUGH 4931
73. M.C. GILL, 08-R4D2-2560 THROUGH 2562
74. M.T. TRUCKING, 07-R4D1-5363
75. MARTIN ROOFING CO., INC., 07-R3D2-4389 AND 4390
76. DAN MATLOCK CONSTRUCTION CO., 07-R4D3-4144
77. JOHN S. MEEK CO., INC., 08-R4D1-1097 THROUGH 1099
78. MERCER, FRASER COMPANY, 06-R2D3-4519
79. MORELLIA'S RESTAURANT, 08-R6D5-2126
80. MY ANGEL & GIFTS, 08-R3D5-0921
81. NICHOLS EGG RANCH, 08-R4D2-2787
82. NINA'S MEXICAN FOODS, 08-R4D4-1024 AND 1025

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83. NORCAL RENTAL GROUP, LLC DBA CRESCO XPRESS,
06-R2D2-4581 AND 4582
84. O'SULLIVAN CONSTRUCTION & BUILDING INC., 07-R1D3-4306
85. JOSE OLGUIN FARM SERVICES, LLC., 07-R2D4-4353 AND 4354
86. OUSD – GRASS VALLEY CHILD DEVELOPMENT CENTER, 06-R1D4-3861
87. BRIAN PARKER CONSTRUCTION INC., 07-R2D5-4132
88. PENINSULA PACKAGING, 07-R2D5-5164
89. J.R. PIRECE PLUMBING CO. INC., 07-R2D1-2685
90. PRIDE INDUSTRIES, 07-R2D1-3301
91. PROWEST PCM INC., DBA PROWEST CONSTRUCTORS, 08-R3D3-0177
92. RDC, INC DBA RESOURCE DEVELOPMENT CO., 05-R1D5-2776
93. RANGEL DRYWALL, INC., 08-R6D5-363
94. REECE ENTERPRISES INC. DBA BREA ROOFING, 07-R3D1-4092 AND 4093
95. RISSE MECHANICAL, 07-R2D1-4834 THROUGH 4837
96. ROMINGER BROTHERS FARMS, INC., 07-R2D1-4831 THROUGH 4833
97. S & S AUTO RECON, 08-R6D5-2358
98. SANTA MONICA – MALIBU USD, SANTA MONICA HIGH SCHOOL,
08-R4D1-3782 AND 3783
99. SANTA ROSA CITY UTILITIES DEPT., 07-R1D5-4816
100. SELECT BUILD NORCAL, 07-R2D1-3938
101. SERVISAIR, 08-R4D1-3145
102. SIERRA-CASCADE NURSERY, INC., 07-R2D3-0273 AND 0274
103. SIERRA-CASCADE NURSERY, INC., 07-R2D3-0281

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104. SIERRA-CASCADE NURSERY, INC., 07-R2D3-4226
105. SKY MANUFACTURING, 07-R6D2-4920 THROUGH 4924
106. SOUP BASES LOADED, INC., 08-R6D2-0232 THROUGH 0237
107. SU ZHOU, 07-R2D2-1676
108. SUN PACIFIC, 07-R4D3-0422 THROUGH 0424
109. SUNG JI FASHION, INC., 08-R6D5-1682 THROUGH 1684
110. SUNSET GLASS, INC., 06-R1D1-2643 AND 2644
111. TARGET DISTRIBUTION, 08-R4D3-3221 AND 3222
100. THMX HOLDINGS, LLC, 07-R6D2-2355 THROUGH 2360
101. TURNER BROADCASTING SYSTEM DBA VERY FUNNY PRODUCTIONS INC.,
07-R4D1-5357
102. ULTIMATE COMMUNICATIONS, 08-R4D1-0751
103. UNIVERSAL FOREST PRODUCTS – WESTERN DIVISION, INC.,
08-R3D3-0575
104. VALLEY HEALTH SYSTEM, 07-R3D3-5354
105. GEORGE AND NANCY WEIS FARM, 08-R2D5-0818 AND 0819
106. WEYERHAEUSER, 08-R4D3-0844
107. TAYLOR WOODROW HOMES, INC., 07-R1D2-907

ORDER (ON REMAND):

1. QUEMETCO, 08-R4D4-0094 AND 0095

ORDERS DISMISSING APPEALS:

1. AMERICAN INFRARED SAUNA CORP, 07-R6D2-2648 THROUGH 2659
2. AMERICAN MEDICAL RESPONSE, INC., 08-R3D5-9335
3. CITY OF OAKLAND FIRE DEPARTMENT, 08-R1D4-9331
4. CRONIN RANCH, 08-R1D4-9329
5. DIVINE STAFFING INC., DBA LLOYD STAFFING, 08-R3D5-9336
6. J.R. SOUTH BAY GOLF, INC., 08-R3D2-1984 THROUGH 1986
7. LA JOLLA COVE SUITES, 08-R3D2-9332
8. LONGS DRUG STORES, INC., 08-R1D2-9343
9. MON DRAGON PALLETS, 08-R6D5-9339
10. ROSENCRANS CAR WASH, 08-R6D5-9342
11. THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA, 08-R2D5-9347
12. WM BUILDERS, 07-R3D2-5112

STIPULATIONS:

1. JR CUSTOM HARVESTING CO., 07-R1D2-712 THROUGH 714

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. ARVAN, INC., 08-R4D1-9584
2. BFD CUSTOM WOODWORKING, 08-R1D2-9442
3. WM BOLTHOUSE FARMS, INC., 08-R2D5-9352
4. DAVID J. BIRD DBA IN STYLE FLOORING AND ITS SUCCESSORS, 08-R3D1-1399 AND 1400
5. FIRST CHOICE CORING, INC., 08-R4D2-9289
6. GCM FARMS, 06-R2D5-911
7. JOHN MANCEBO, 08-R2D5-9313
8. MOZZARELLA FRESCA, INC., 07-R2D5-9298
9. OMEGA EXTRUDING CORP. OF AMERICA, 07-R4D2-9445
10. PHOENIX CONSTRUCTION SERVICES, 08-R4D2-9374
11. A TEICHERT & SON, INC., 05-R2D4-2650 AND 2651
12. DONALD VICKERY WELL DRILLING, 08-R3D3-9010
13. YANG'S CONSTRUCTION, 08-R4D2-1517 THROUGH 1523

DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):

1. SHIMMICK CONSTRUCTION AND OBAYASHI CORP., 06-R5D3-1136

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
13. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
15. COX COMMUNICATIONS, 03-R3D2-1942
16. DADE BEHRING, 05-R2D1-2203
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636

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20. DYNALECTRIC, 03-R1D1-4101
21. EL PROGRESSO, INC.
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. G.T. ALDERMAN, INC., 05-R4D3-3513
25. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-750 AND 751
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HELPMATES STAFFING SERVICES, 05-R3D3-2239
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
33. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
34. JENSEN PRECAST, 05-R2D1-2377
35. JOHN LAING HOMES, 04-R3D1-194 AND 195
36. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
37. KELLY SERVICES, INC., 06-R1D2-1024
38. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
39. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
40. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
41. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552
THROUGH 1554

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42. O & M INDUSTRIES, 04-R1D5-1597
43. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
44. PMR RACE CARS, 03-R3D3-1825
45. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
46. RII PLASTERING INC., 02-R3D1-2679
47. R & L BROSAMER, INC., 03-R1D5-4832
48. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
49. STACY & WITBECK, INC., 05-R1D1-1142
50. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH 1692
51. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
52. TEICHERT AGGREGATES, 04-R5D1-2982
53. THE HERRICK CORP., 07-R3D1-495
54. TRIO METAL, 03-R4D4-317
55. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
56. UNITED PARCEL SERVICE, 07-R3D3-3322
57. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
58. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

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PENDING LITIGATION:

(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
5. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
6. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
9. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (06-2759)
10. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
11. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

OTHER LEGAL MATTERS:

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.